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Matthew R. Hyre

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EXAMINER
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LOPEZ, CARLOS N

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* MATTHEW R. HYRE and  
F. ALAN FENTON

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Appeal 2008-0916  
Application 10/005,682  
Technology Center 1700

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Decided: February 20, 2008

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Before EDWARD C. KIMLIN, CATHERINE Q. TIMM, and  
MICHAEL P. COLAIANNI, *Administrative Patent Judges*.

COLAIANNI, *Administrative Patent Judge*.

DECISION ON APPEAL

1 Appellants appeal under 35 U.S.C. § 134 the final rejection of claims 1, 2 and 4. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

We REVERSE.

INTRODUCTION

Appellants claim a blow head mechanism for blowing a parison in a blow mold station of an individual section (I.S.) machine comprising, in

relevant part, an air deflector having an annular, concave surface terminating at the top with a vertically extending post for deflecting air traveling axially down the blow tube uniformly radially outwardly (Claim 1; Fig. 8).

Claim 1 is illustrative:

1. A blow head mechanism for blowing a parison in a blow mold of a blow station of an I.S. machine and cooling the blown parison so that a bottle will be formed which can be removed from the blow station comprising [*sic* :]  
a blow head assembly,  
support means for supporting said blow head assembly,  
first displacement means for displacing said support means to displace said blow head assembly between a remote up position and an advanced down position,  
said blow head assembly including a blow tube selectively displaceable between an up position and a down position,  
second displacement means for displacing said blow tube from the up position down to the down position and then back up to the up position at least one time during the time the parison is blown and cooled,  
said blow tube being open at the bottom,  
an air deflector having an annular, concave surface terminating at the top with a vertically extending post for deflecting air traveling axially down the blow tube uniformly radially outwardly and  
a supporting frame for supporting said air deflector proximate the open bottom of said blow tube.

The Examiner relies on the following prior art references as evidence of unpatentability:

Virog, Jr.	4,348,167	Sep. 7, 1982
Rodriguez-Wong	5,807,419	Sep. 15, 1998

The rejection as presented by the Examiner is as follows:

1. Claims 1, 2, and 4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Rodriguez-Wong in view of Virog, Jr.

## OPINION

Appellants argue that neither Rodriguez-Wong nor Virog, Jr. disclose an air deflector having an annular, concave surface (Br. 15, 16). We agree.

To establish a prima facie case of obviousness, all claim features must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 985 (CCPA 1974).

“Concave” is defined as “curving like the inner surface of a sphere.”<sup>1</sup> In contrast, “convex” is defined as “having a surface or boundary that curves or bulges outward, as the exterior of a sphere.”<sup>2</sup> Therefore, a “concave surface” is a surface curving like the inner surface of a sphere, whereas a “convex surface” is a surface that curves or bulges outward like an exterior of a sphere.

The Examiner relies on Virog, Jr.’s air outlet nozzle 12 having a protrusion toward the end of the nozzle as teaching an air deflector with an annular, concave surface terminating at the top with a vertically extending post (Ans. 4 and 5). The Examiner provides a magnified view of Virog, Jr.’s air outlet nozzle 12 with the protrusion, and indicates, in the magnified view, that Virog, Jr.’s protrusion with the rounded edges constitutes a “concave surface” (Ans. 5-7).

However, as clearly shown in Virog, Jr.’s Figure 2, the protrusion bulges outward like an exterior of a sphere. In other words, Virog, Jr. discloses a convex surface for the protrusion (i.e., deflector), not a concave surface as Appellants have claimed.

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<sup>1</sup> *American Heritage Dictionary of the English Language*, 275 (William Morris ed. 1975).

<sup>2</sup> *American Heritage Dictionary of the English Language*, 291 (William Morris ed. 1975).

Accordingly, because all the claim features are not taught by the combination of Rodriguez-Wong in view of Virog, Jr., we determine that the Examiner has not established a prima facie case of obviousness. *Royka*, 490 F.2d at 985.

Therefore, we cannot sustain the Examiner's § 103(a) rejection of claims 1, 2, and 4 over Rodriguez-Wong in view of Virog, Jr.

#### DECISION

The Examiner's decision is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

#### REVERSED

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